

# Exhibit 40

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.*

Civil Action No. 07-10248-PBS

Exhibit to the August 28, 2009 Declaration of James J. Fauci In Opposition To  
Corrected Boehringer Ingelheim Corporation and Boehringer Ingelheim Pharmaceuticals, Inc.  
Local Rule 56.1 Statement of Undisputed Material Facts  
in Support of Their Motion For Summary Judgment

**Coval, Paul J.**

---

**From:** WATERER, JUDY ROXUS  
**Sent:** Thursday, December 12, 1996 4:31 PM  
**To:** POWERS, JOHN ROXUS  
**Cc:** Marketing Managers Supervisors  
**Subject:** RE: Ipratropium Bromide UDV

EUREKA!!!!

Way to go John, Jerry, et. al. !!!! This happened for us because you drove the process. This is another first for us in showing what we can accomplish when we combine the strength of Roxane with BIPI! Kaiser! KAISER!

This just might amount to a cool MILLION \$\$ in IB-UDV for us next year!

-----  
**From:** POWERS, JOHN ROXUS  
**To:** WATERER, JUDY ROXUS  
**Cc:** Marketing Managers Supervisors  
**Subject:** Ipratropium Bromide UDV  
**Date:** Thursday, December 12, 1996 1:19PM

Good News!!

We have just received word that Kaiser has accepted our bundled agreement for IB/Atrovent MDI. Under this agreement, Kaiser has agreed to purchase 50,000 x 25 UDV during 1997 and allow for a transition to Roxane MDI when released (under a First Right of Refusal clause in the agreement) before acceptance of a competitive supplier price. The contract will start January 1.

John